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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,805	08/11/2000	Joseph G. Wirtz	1925.0040000/JRK/KPP	9228
24573	7590	09/27/2005	EXAMINER	
BELL, BOYD & LLOYD, LLC PO BOX 1135 CHICAGO, IL 60690-1135			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER

3625

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,805

Applicant(s)

WIRTZ ET AL.

Examiner

Yogesh C. Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment received on 6/27/2005 is acknowledged and entered. The applicant has amended claims 1, 13, 14, 18, 20, and 26-32. Currently claims 1-35 are pending for examination.

Response to Arguments

2.1. The applicant argues (see Remarks, page 16, lines 8-26) concerning claims 1, 2, 4-14, 16-20, 22 and 24-35 that Hartman does not disclose:

(A) Quote: " a " selection panel" to display items ordered by the purchaser with the graphical depiction of the item or items on the graphical user interface of the client computer as defined by Claim 1.... Therefore, Hartman does not disclose, teach or suggest using a shopping order display or any similar type of selection panel displayed with the graphical depiction on the same graphical user interface".

Unquote. The examiner respectfully disagrees for the following reasons:

(i) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., using a shopping order display with the graphical depiction on the same graphical user interface) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claims do recite producing a selection panel on GUI where the panel comprises a list of

one or more promotional items but do not recite “ *using a shopping order display with the graphical depiction on the same graphical user interface* ”.

(ii) Further, the reference Hartman does show displaying a selection panel on GUI wherein the panel comprises one or more items, see Fig.1A reference number 101, “ Summary description of item”, which corresponds to displaying a selection panel on GUI comprising one or more items and col.4, lines 4-19, “..... *FIG. 1A illustrates the display of a Web page describing an item that may be ordered. This example Web page was sent from the server system to the client system when the purchaser requested to review detailed information about the item. This example Web page contains a summary description section 101, The summary description and the detailed description sections provide information that identifies and describes the item(s) that may be ordered.* ”

(B) Quote: “ Hartman also does not disclose, “sending descriptive data related to one of the promotional items to a selection panel”On the contrary, as described above, Hartman teaches the transfer of information from the server to the client....In contrast, the claimed invention provides that the ordering is performed based on the information stored in the auxiliary file and not the server “. The examiner respectfully disagrees for the following reasons:

(i) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the auxiliary file containing the descriptive data is not sent from the server) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re*

Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In the present case, the claims recite that the descriptive data is received from an auxiliary file but they do not recite that this auxiliary file is not sent from the server. Further, Hartman does teach sending descriptive data related to one or more of the items displayed on the selection panel wherein the descriptive information is provided from an auxiliary file, see FIG. 1 A, reference number 104 " Detailed Description of Item" on a Web page and as acknowledged by Hartman, see col.1, lines 31-45, the HTML documents contain various tags which control displaying detail information in the form of text, graphics and other features. Tag attached to the web page corresponds to the claimed auxiliary file.

(C) The applicant argues that the reference Airnet does not disclose displaying a selection panel comprising one or more items as claimed. In response to applicant's arguments against the references individually, that is Airnet, and one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references, that is Hartman and Airnet. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As analyzed above, Hartman already discloses this limitation of displaying a selection panel comprising one or more items.

In view of the foregoing, rejection of all claims is sustainable as presented earlier in the Office action mailed on 1/2/2003. This is a Final action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3.1. Claims 1, 2, 4-14, 16-20, 22, 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman et al. (US Patent 5,960,411), and further in view of web pages from web site www.airnet.com extracted from Internet on March 22, 2000, received with IDS, paper number 4, pages 13, hereinafter referred to as Arinet.

Hartman teaches a method, a system and a computer program product for permitting a user to order merchandise on a client that communicates with two or more servers, the servers responding to on-demand requests for a web page containing promotional items of merchandise, wherein the server sends to the client the web page and an auxiliary file containing descriptive data related to the items, comprising receiving, at the client, the web page and the auxiliary file, to produce description of the promotional item on a graphical user interface coupled to the client and configured to receive input from the user, displaying the descriptive data related to the promotional item and the descriptive data is implemented in response to a pointer linked to an input device being moved over one of the promotional items sending a purchase request to the server to purchase the promotional item sent to the selection panel in response to an order request from the user, synchronizing the selection panel with a duplicate of the

selection panel located on the server , receiving a confirmation signal from the server to verify that the promotional item has been added to a duplicate panel of the selection panel, allowing to delete items from the selection panel and the selection panel provides a metaphorical shopping cart, shopping basket or trolley (see at least col.1, lines 10-65, "... *The Internet comprises of a vast number of computers and computer networksinterconnected computers exchange information using.....the World Wide Web.....WWW allows a server computer system....send graphical Web pages of information to a remote client computer system.....When the client computer system receives that Web page, it typically displays the Web page using a browser.....The HTML document contains various tags that control the displaying of text, graphics.....Many web servers have been developed through which vendors can advertise and sell product* ", col.2, line 17-col.4, line 58, "... *The selection of the various items...based on the "shopping cart" model.....server system metaphorically adds that item to a shopping cart....*", and FIGS. 1A, 1B,1C, 2,3, 4. Note: the term promotional does not lend a patentable weight towards the structure of the system claimed. In Hartman, the products from advertising vendors (col.1, lines 47-49) relate to promotional items. Also selection panel in claim relates to shopping cart in Hartman.).

Hartman does not disclose a graphic depiction producing a parts explosion image of the promotional item and that by clicking an item it can be dragged and dropped in the selection panel. However, Arinet expressly discloses a graphic depiction producing an explosion image of items and further discloses using drag-and-drop tools to pick items and drop elsewhere (see at least page 5, page 6-Figure, and pages 9-13.

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In view of Arinet it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Hartman to disclose a graphic depiction producing an explosion image of items and use of drag-and drop tools. Doing so would help users to visually see and correctly order the items conveniently, as suggested in Arinet (see at least page 6 Figure's Text under "Image Server").

3.2. Claims 3,15,21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman/Arinet and further in view of Bernhardt et al. (US Patent 6,496,208), hereinafter referred to as Bernhardt.

With regards to claims 3, 15, 21, and 23 Hartman/Arinet teaches a method, a system and a computer program product to order a merchandize on a client that communicates with the server and the server sends a file data displaying the description of the items being sold as disclosed in claims 1, 14, 18, and 22 respectively and analyzed above. Hartman/Arinet does not teach that when a item is pointed at to select it, it is displayed in different colors and each different color indicates a different property related to that item, for example, one color represents that the item may have a subassembly, another color may indicate that it has no further subassembly, and further another color may indicate that its price is discounted. However, as per information generally available it is well known practice to use color-coding while displaying data or information on computer screens to differentiate the information represented by each color, e.g., while displaying the performance of companies, stocks green and red colors indicate profits and loss respectively. Bernhardt expressly teaches the use of color-

coding and color intensity to represent different values of data/information (see at least, abstract, Figs. 5 and 5A, col. 3, lines 7-14, col.5, lines 28-38, and col.6, line 48-col.7, line 40). In view of the knowledge generally available and as expressed in Bernhardt it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Hartman/Arinet to use color coding in describing the parts on computer screens to represent different characteristics about them.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
September 26, 2005